

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

UNITED STATES OF AMERICA,
Plaintiff,
v.
KENNETH CHIO HENG IONG,
Defendant.

CR No. 05-00117-01-HG
**DEFENDANT'S
MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF MOTION**

MEMORANDUM OF POINTS AND AUTHORITIES

On February 23, 2007, defendant Kenneth Chio Heng Iong pled guilty, pursuant to a written plea agreement, to Counts 3 and 11 of the Indictment, charging defendant with income tax evasion and passport fraud, respectively. On that same day, defendant signed a substitution of attorney form to replace his then counsel, Stuart Fujioka, with his new counsel, the law firm of Jones Day (Brian Hershman appearing pro hac vice) and local counsel Leighton K. Lee.

Because Mr. Hershman and Mr. Lee had only that day entered an appearance as counsel of record,¹ and had just retained a forensics accounting expert to analyze the information provided by the government in discovery, defendant's counsel asked the Court, the Honorable Kevin Chang presiding, if the Court would continue the sentencing from June 7, 2007 to a date in September 2007. Although the Court indicated the request was "reasonable," the Court

¹ For approximately two weeks prior to the change of plea, the law firm of Jones Day was assisting defendant with respect to negotiating a potential plea offer from the government. However, Jones Day did not officially enter an appearance until the substitution of attorney was filed with the Court on February 23, 2007. (Hershman Decl., ¶ 2).

commented that it was not authorized to continue the sentencing and suggested that counsel raise the matter with this Court.

Accordingly, defendant requests that the Court continue the sentencing hearing for defendant from June 7, 2007 to September 13, 2007, in the interests of justice. As discussed above, defendant's counsel only recently was retained for purposes of arguing sentencing in this matter, and counsel needs sufficient time to analyze the discovery provided by the government, research appropriate issues for sentencing, discuss the law and facts with the defendant, and prepare a sentencing position paper for defendant. In addition, defendant has only recently retained a forensic accounting expert to review and analyze the discovery provided by the government, including defendant's tax returns. Defendant's expert needs additional time to analyze the financial documents and prepare a report with respect to the applicable tax loss for sentencing guidelines purposes and defendant's outstanding tax liability. After the report is prepared, the expert will need to provide it to counsel and make the report available to the probation officer assigned to preparing the presentence report so that such information can be included in the loss calculations for the presentence report. Finally, it is defendant's intention to secure resources to pay any potential tax liability prior to sentencing. Defendant needs additional time to determine the tax liability and obtain the required resources. Therefore, good cause exists to continue the

sentencing hearing from June 7, 2007 to September 13, 2007, or a date thereafter convenient to the Court, in the interests of justice.

DATED: 3/14/07, Honolulu, Hawaii JONES DAY

By:
bri Brian D. Hershman
Attorney for Defendant,
Kenneth Chio Heng Iong